

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ALBERT LOWERY,	)	
	)	Civil Action No. 11 - 190
Petitioner,	)	
	)	Magistrate Judge Lisa Pupo Lenihan
v.	)	
	)	
SUPERINTENDENT MR. LAWLER ; S. A.	)	
ZAPPALA, JR. ; and TOM CORBETT,	)	
	)	
Respondents.	)	
	)	

**MEMORANDUM ORDER**

On February 11, 2011, the above captioned case was initiated by the filing of a Petition for Writ of Habeas Corpus (ECF No. 1) and was referred to a united states magistrate judge for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and the Local Rules for Magistrate Judges.

The magistrate judge filed a report and recommendation on March 3, 2011 (ECF No. 8) recommending that the Petition for Writ of Habeas Corpus be dismissed without prejudice and that a certificate of appealability be denied. Petitioner was served with the report and recommendation at his address of record and was advised he was allowed fourteen (14) days to file written objections to the report and recommendation. No objections have been filed.

After *de novo* review of the pleadings and documents in the case, together with the report and recommendation, the following order is entered:

**AND NOW**, this 17th day of May, 2011;

**IT IS HEREBY ORDERED** that the Petition for Writ of Habeas Corpus is **DISMISSED WITHOUT PREJUDICE**.

**IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED**.

**IT IS FURTHER ORDERED** that the report and recommendation (ECF No. 8) is **ADOPTED** as the opinion of the Court.

**IT IS FURTHER ORDERED** that the Clerk of Court mark this case **CLOSED**.

**AND IT IS FURTHER ORDERED** that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Plaintiff has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.

By the Court:

/s/ Joy Flowers Conti  
Joy Flowers Conti  
United States District Judge

cc: Albert Lowery  
GT-7138  
SCI Huntingdon  
1100 Pike Street  
Huntingdon, PA 16654-1112